

701—10.115 (421) Application of payments to penalty, interest, and then tax due for payments made on or after January 1, 1995, unless otherwise designated by the taxpayer. The department will not reapply prior payments made by the taxpayer to penalty or interest determined to be due after the date of those prior payments. However, the department will apply payments to penalty and interest which were due at the time the payment was made.

Example (a) — Delinquent Return

- a. Tax due is \$1,000.
- b. Return filed two months late.
- c. \$1,000 paid with the return.
- d. The department bills the additional tax in the third month after the due date. The taxpayer pays the assessment in the third month.

The computation of additional tax is shown below:

Tax	\$1,000.00	
Penalty	100.00	(10% failure to file penalty)
Interest	14.00	(2 months interest)
Total	\$1,114.00	
Less payment	1,000.00	
Additional tax due	\$ 114.00	
Interest	.80	(1 month interest)
Total due	\$ 114.80	

Two years after the due date, the Internal Revenue Service conducts an audit and increases the taxpayer's taxable income. The department redetermines the taxpayer's liability 26 months after the due date as follows:

Tax as redetermined by the department	\$1,100.00	
Less paid with return	1,000.00	
Additional tax	\$ 100.00	
Penalty	10.00	(10% failure to file penalty)
Interest	18.20	(26 months interest)
Total due	\$ 128.20	

Example (b) — Timely Filed No Remit

- a. Tax due is \$1,000.
- b. Return timely filed.
- c. \$0 paid.

The calculation for the total amount due five months after the due date is shown below:

Tax	\$1,000.00	
Penalty	50.00	(5% failure to pay penalty)
Interest	35.00	(5 months interest)
Total due	\$1,085.00	

The department bills the additional tax in the fifth month after the due date and the taxpayer pays the additional amount in the eighth month after the due date. The payment is applied as follows:

Tax	\$1,000.00	
Penalty	50.00	(5% failure to pay penalty)
Interest	56.00	(8 months interest)
Total due	<u>\$1,106.00</u>	
Amount paid	\$1,085.00	
Balance tax due \$21.00 subject to interest until paid.		
The balance due was not paid.		

Three years after the due date the taxpayer forwards a copy of an Internal Revenue Service audit which increases the taxpayer's income to the department. The department recomputes the taxpayer's liability as follows:

Tax as redetermined by the department	\$1,200.00	
Less paid per prior audit	<u>979.00</u>	
Balance due	\$ 221.00	(includes the balance due of \$21)
Penalty	10.00	(5% failure to pay penalty on \$200, the \$21.00 already bears penalty)
Interest	54.52	(36 months interest on \$200 and 28 months interest on \$21)
Total due	<u>\$ 285.52</u>	

10.115(1) Refunds. In those instances where an audit reduced the amount of tax, penalty, and interest due over the amount paid, the department will reapply payments so that amount refunded is tax on which interest will accrue as set forth in the Iowa Code.

10.115(2) Partial payments made after notices of assessments are issued. Where partial payments are made after a notice of assessment is issued, the department will reapply payments to penalty, interest, and then to tax due until the entire assessed amount is paid. See *Ashland Oil Inc. v. Iowa Department of Revenue and Finance*, 452 N.W.2d 162 (Iowa 1990). If penalty, interest, and tax are due and owing for more than one tax period, any payment must be applied first to the penalty, then the interest, then the tax for the oldest tax period, then to the penalty, interest, and tax to the next oldest tax period, and so on until the payment is exhausted.

Where there are both agreed- and unagreed-to items as a result of an examination, the taxpayer and the department may agree to apply payments to the penalty, interest, and then to tax due on the agreed-to items of the examination when all of the penalty, interest, and tax on the agreed-to items are paid. In these instances, subsequent payments will not be applied to penalty and interest accrued on the agreed-to items of the examination.

This rule is intended to implement Iowa Code section 422.25(4).